

## INDUSTRIAL COUNCILS AND TRADE BOARDS.

### Memorandum by the Minister of Reconstruction and the Minister of Labour.

1. The proposals contained in the First Report on Joint Standing Industrial Councils (Cd. 8606) of the Committee on Relations between Employers and Employed have been adopted by the Government. The steps which have been taken to establish Industrial Councils have enabled the Government to consider the proposals of the Second Report on Joint Standing Industrial Councils (Cd. 9002) in the light of experience. This Report, which deals with industries other than those which are highly organised, follows naturally upon the First Report of the Committee, and develops the line of policy therein proposed. It has not been found possible from the administrative point of view to adopt the whole of the recommendations contained in the Second Report, but such modifications as it seems desirable to make do not affect the principles underlying the Committee's proposal for the establishment of Joint Industrial Councils. They are designed to take advantage of the administrative experience of the Ministry of Labour with regard to both Industrial Councils and Trade Boards. In view of the growing interest which is being taken in the establishment of Industrial Councils and of the proposed extension of Trade Boards, it appears desirable to set forth the modifications which the Government regard as necessary in putting into operation the recommendations of the Second Report, and also to make clear the relations between Trade Boards and Industrial Councils.

2. The First Report on Joint Standing Industrial Councils referred only to the well-organised industries. The Second Report deals with the less organised and unorganised trades, and suggests the classification of the industries of the country into three groups:—

“Group A.—Consisting of industries in which organisation on the part of employers and employed is sufficiently developed to render their respective associations representative of the great majority of those engaged in the industry. These are the industries which we had in mind in our first Interim Report.

“Group B.—Comprising those industries in which, either as regards employers and employed, or both, the degree of organisation, though considerable, is less marked than in Group A.

“Group C.—Consisting of industries in which organisation is so imperfect, either as regards employers or employed, or both, that no associations can be said adequately to represent those engaged in the industry.”

The proposals of the Committee on Relations between Employers and Employed are summarised in paragraph 20 of their Second Report as follows:—

“(a) In the more highly organised industries (Group A.) we propose a triple organisation of national, district, and workshop bodies, as outlined in our First Report.

“(b) In industries where there are representative associations of employers and employed, which, however, do not possess the authority of those in Group A. industries, we propose that the triple organisation should be modified, by attaching to each National Industrial Council one, or at most two representatives of the Ministry of Labour to act in an advisory capacity.

“(c) In industries in both Groups A. and B., we propose that unorganised areas or branches of an industry should be provided, on the application of the National Industrial Council, and with the approval of the Ministry of Labour, with Trade Boards for such areas or branches, the Trade Boards being linked with the Industrial Council.

“(d) In industries having no adequate organisation of employers or employed, we recommend that Trade Boards should be continued or established, and that these should, with the approval of the Ministry of Labour, be enabled to formulate a scheme for an Industrial Council, which might include, in an advisory capacity, the ‘appointed members’ of the Trade Board.”

It may be convenient to set out briefly the modifications of the above proposals, which it has been found necessary to make.

(1) As regards (b) it has been decided to recognise one type of Industrial Council only, and not to attach official representatives to the Council, except on the application of the Industrial Council itself.

(2) As regards (c) and (d) the relations between Trade Boards and Industrial Councils raise a number of serious administrative difficulties due to the wide differences in the purpose and structure of the two types of bodies. It is not regarded as advisable that a Trade Board should formulate a scheme for an Industrial Council, nor is it probable that Trade Boards for unorganised areas will be set up in conjunction with a Joint Industrial Council.

[Price 1d. Net.]

3. It is necessary at the outset to emphasise the fundamental differences between Industrial Councils and Trade Boards. A Joint Industrial Council is voluntary in its character and can only be brought into existence with the agreement of the organisations of employers and workpeople in the particular industry, and the Council itself is composed exclusively of persons nominated by the Employers' Associations and Trade Unions concerned. The Industrial Council is, moreover, within very wide limits, able to determine its own functions, machinery and methods of working. Its functions in almost all cases will probably cover a wide range and will be concerned with many matters other than wages. Its machinery and methods will be based upon past experience of the industry and the existing organisation of both employers and employed. Industrial Councils will, therefore, vary in structure and functions as can be seen from the provisional constitutions already submitted to the Ministry of Labour. Financially they will be self-supporting, and will receive no monetary aid from the Government. The Government proposes to recognise the Industrial Council in an industry as the representative organisation to which it can refer. This was made clear in the Minister of Labour's circular letter of October 20th, 1917, in which it is said that "the Government desire it to be understood that the Councils will be recognised as the official standing consultative committees to the Government on all future questions affecting the industries which they represent, and that they will be the normal channel through which the opinion and experience of an industry will be sought on all questions in which the industry is concerned."

A Trade Board, on the other hand, is a statutory body established by the Minister of Labour and constituted in accordance with Regulations made by him in pursuance of the Trade Boards Act; and its expenses, in so far as authorised by the Minister of Labour and sanctioned by the Treasury, are defrayed out of public money. The Regulations may provide for the election of the representatives of employers and workers or for their nomination by the Minister of Labour, but in either case provision must be made for the due representation of homeworkers in trades in which a considerable proportion of homeworkers are engaged. On account of the comparative lack of organisation in the trades to which the Act at present applies, the method of nomination by the Minister has proved in practice to be preferable to that of election, and in nearly all cases the representative members of Trade Boards are now nominated by the Minister. The Employers' Associations and Trade Unions in the several trades are invited to submit the names of candidates for the Minister's consideration, and full weight is attached to their recommendation, but where the trade organisations do not fully represent all sections of the trade, it is necessary to look outside them to find representatives of the different processes and districts affected.

A further distinction between Trade Boards and Industrial Councils is, that while Industrial Councils are composed entirely of representatives of the Employers' Associations and Trade Unions in the industry, every Trade Board includes, in addition to the representative members, a small number (usually three) of "appointed members," one of whom is appointed by the Minister to act as Chairman and one as Deputy Chairman of the Board. The appointed members are unconnected with the trade and are appointed by the Minister as impartial persons. The primary function of a Trade Board is the determination of minimum rates of wages, and when the minimum rates of wages fixed by a Trade Board have been confirmed by the Minister of Labour, they are enforceable by criminal proceedings, and officers are appointed to secure their observance. The minimum rates thus become part of the law of the land, and are enforced in the same manner as, for example, the provisions of the Factory Acts. The purpose, structure, and functions of Industrial Councils and Trade Boards are therefore fundamentally different. Their respective areas of operation are also determined by different considerations. An Industrial Council will exercise direct influence only over the organisations represented upon it. It will comprise those employers' associations with common interests and common problems; similarly its trade union side will be composed of representatives of organisations whose interests are directly interdependent. An Industrial Council therefore is representative of organisations whose objects and interests, whilst not identical, are sufficiently interlocked to render common action desirable. The various organisations represent the interests of employers and workers engaged in the production of a particular commodity or service (or an allied group of commodities or services).

A Trade Board, on the other hand, is not based on existing organisations of employers and employed, but covers the whole of the trade for which it is established. As the minimum rates are enforceable by law, it is necessary that the boundaries of the trade should be precisely defined; this is done, within the limits prescribed by statute, by the Regulations made by the Minister of Labour. Natural divisions of industry are, of course, followed as far as possible, but in many cases the line of demarcation must necessarily be somewhat arbitrary. In the case of Industrial Councils difficult demarcation problems also arise, but the considerations involved are somewhat different, as the object is to determine whether the interests represented by given organisations are sufficiently allied to justify the co-operation of these organisations in one Industrial Council.

4. The reports received from those who are engaged in assisting the formation of Joint Industrial Councils show that certain paragraphs in the Second Report of the Committee on



Relations between Employers and Employed have caused some confusion as to the character and scope of Joint Industrial Councils and Trade Boards respectively. It is essential to the future development of Joint Industrial Councils that their distinctive aim and character should be maintained. It is necessary therefore to keep clearly in mind the respective functions of the Joint Industrial Council and the Trade Board, in considering the recommendations contained in the following paragraphs of the Second Report :—

- (a) Paragraphs 3, 4 and 5, dealing with the division of Joint Industrial Councils into those that cover Group A. industries, and those that cover Group B. industries.
- (b) Paragraph 7, dealing with district Industrial Councils in industries where no National Council exists.
- (c) Paragraphs 10, 13, 15 and 16, dealing with Trade Boards in relation to Joint Industrial Councils.
- (d) Paragraphs 11 and 12, dealing with Trade Boards in industries which are not suitably organised for the establishment of a Joint Industrial Council.

5. *Distinction drawn between Joint Industrial Councils in Group A. Industries and Group B. Industries.*—In paragraph 9 of the Second Report it is implied that the Ministry of Labour would determine whether the standard of organisation in any given industry has reached such a stage as to justify the official recognition of a Joint Industrial Council in that industry. It is clear, however, that it would be impossible for the Ministry to discover any satisfactory basis for distinguishing between an industry which falls into Group A., and one which falls into Group B. It is admitted in paragraph 9 of the Second Report, that no arbitrary standard of organisation could be adopted, and it would be both invidious and impracticable for the Ministry of Labour, upon whom the responsibility would fall, to draw a distinction between A. and B. Industries. The only clear distinction is between industries which are sufficiently organised to justify the formation of a Joint Industrial Council, and those which are not sufficiently organised. Individual cases must be judged on their merits after a consideration of the scope and effectiveness of the organisation, the complexity of the industry and the wishes of those concerned.

The experience already gained in connection with Joint Industrial Councils indicates that it would be inadvisable in the case of industries in Group B. to adopt the proposal that “there should be appointed one or at most two official representatives to assist in the initiation of the Council and continue after its establishment to act in an advisory capacity and serve as a link with the Government.” It is fundamental to the idea of a Joint Industrial Council that it is a voluntary body set up by the industry itself, acting as an independent body and entirely free from all State control. Whilst the Minister of Labour would be willing to give every assistance to Industrial Councils, he would prefer that any suggestion of this kind should come from the industry, rather than from the Ministry.

The main idea of the Joint Industrial Council as a Joint Body representative of an industry and independent of State control has now become familiar, and the introduction of a second type of Joint Industrial Council for B. industries would be likely to cause confusion and possibly to prejudice the future growth of Joint Industrial Councils.

In view of these circumstances, therefore, it has been decided to adopt a single type of Industrial Council.

6. *District Industrial Councils.*—Paragraph 7 of the Second Report suggests that in certain industries in which a National Industrial Council is not likely to be formed, in the immediate future, it might none the less be possible to form one or more “District” Industrial Councils.

In certain cases the formation of joint bodies covering a limited area is probable. It would, however, avoid confusion if the term “District” were not part of the title of such Councils, and if the use of it were confined to District Councils in an industry where a National Council exists. Independent local Councils might well have a territorial designation instead.

7. *Trade Boards in Relation to Joint Industrial Councils.*—The distinction between Trade Boards and Joint Industrial Councils has been set forth in paragraph 3 above. The question whether an Industrial Council should be formed for a given industry depends on the degree of organisation achieved by the employers and workers in the industry, whereas the question whether a Trade Board should be established depends primarily on the rates of wages prevailing in the industry or in any part of the industry. This distinction makes it clear that the question whether a Trade Board should or should not be set up by the Minister of Labour for a given industry, must be decided apart from the question whether a Joint Industrial Council should or should not be recognised in that industry by the Minister of Labour.

It follows from this that it is possible that both a Joint Industrial Council and a Trade Board may be necessary within the same industry.

In highly organised industries, the rates of wages prevailing will not, as a rule, be so low as to necessitate the establishment of a Trade Board. In some cases, however, a well-defined section of an otherwise well-organised industry or group of industries may be unorganised and ill-paid; in such a case it would clearly be desirable for a Trade Board to be established for the ill-paid section, while there should at the same time be an Industrial Council for the remaining sections, or even for the whole, of the industry or industrial group.

In the case of other industries sufficiently organised to justify the establishment of an Industrial Council, the organisations represented on the Council may nevertheless not be comprehensive enough to regulate wages effectively throughout the industry. In such cases a Trade Board for the whole industry may possibly be needed.

Where a Trade Board covers either the whole or part of an industry covered by a Joint Industrial Council, the relations between them may, in order to avoid any confusion or misunderstanding, be defined as follows:—

- (1) Where Government Departments wish to consult the industry, the Joint Industrial Council, and not the Trade Board, will be recognised as the body to be consulted.
- (2) In order to make use of the experience of the Trade Board, the constitution of the Industrial Council should be so drawn as to make full provision for consultation between the Council and the Trade Board on matters referred to the former by a Government Department, and to allow of the representation of the Trade Board on any Sub-Committee of the Council dealing with questions with which the Trade Board is concerned.
- (3) The Joint Industrial Council clearly cannot under any circumstances over-ride the statutory powers conferred upon the Trade Board, and if the Government at any future time adopted the suggestion contained in Section 21 of the First Report that the sanction of law should be given on the application of an Industrial Council to agreements made by the Council, such agreements could not be made binding on any part of a trade governed by a Trade Board, so far as the statutory powers of the Trade Board are concerned.

The Minister of Labour will not ordinarily set up a Trade Board to deal with an industry or branch of an industry, in which the majority of employers and workpeople are covered by wage agreements, but in which a minority, possibly in certain areas, are outside the agreement. It would appear that the proposal in Section 21 of the First Report was specially designed to meet such cases. Experience has shown that there are great difficulties in the way of establishing a Trade Board for one area only in which an industry is carried on, without covering the whole of a Trade, though the Trade Boards Act allows of this procedure.

8. *Trade Boards in industries which are not sufficiently organised for the establishment of a Joint Industrial Council.*—Section 3 of the Trade Boards Act, 1909, provides that “a Trade Board for any trade shall consider, as occasion requires, any matter referred to them by a Secretary of State, the Board of Trade, or any other Government Department, with reference to the industrial conditions of the trade, and shall make a report upon the matter to the department by whom the question has been referred.”

In the case of an industry in which a Trade Board has been established, but an Industrial Council has not been formed, the Trade Board is the only body that can claim to be representative of the industry as a whole.

It is already under a statutory obligation to consider questions referred to it by a Government Department; and where there is a Trade Board but no Industrial Council in an industry it will be suggested to Government Departments that they should consult the Trade Board as occasion requires in the same manner as they would consult Industrial Councils.

On the other hand, for the reasons which have been fully set out above, Industrial Councils must be kept distinct from Trade Boards, and the latter, owing to their constitution, cannot be converted into the former. If an industry in which a Trade Board is established becomes sufficiently organised for the formation of an Industrial Council, the Council would have to be formed on quite different lines from the Trade Board, and the initiative should come, not from the Trade Board, which is a body mainly nominated by the Minister of Labour, but from the organisations in the industry. Hence it would not be desirable that Trade Boards should undertake the formation of schemes for Industrial Councils.

Ministry of Reconstruction,  
2, Queen Anne's Gate Buildings,  
Westminster, S.W.  
7th June 1918.

L O N D O N :  
PUBLISHED BY HIS MAJESTY'S STATIONERY OFFICE.

To be purchased through any Bookseller or directly from  
H.M. STATIONERY OFFICE at the following addresses :  
IMPERIAL HOUSE, KINGSWAY, LONDON, W.C.2, and 28, ABINGDON STREET, LONDON, S.W.1;  
37, PETER STREET, MANCHESTER; 1, ST. ANDREW'S CRESCENT, CARDIFF;  
23, FORTH STREET, EDINBURGH;  
or from E. PONSONBY, LTD., 116, GRAFTON STREET, DUBLIN.

Printed under the authority of His Majesty's Stationery Office  
By EYRE and SPOTTISWOODE, LTD., East Harding Street, E.C.4,  
Printers to the King's most Excellent Majesty.